

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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NATANAEL RIVERA and  
JOSE R. PADILLA,

Plaintiffs,

v.

GREGORY GRAMS, Warden,  
KURT SCHWEBKE, JERRY MAIER,  
DARCI BURRESON, JENNIFER NICKELS,  
STEVE HELGERSON, DALIA SULIENE, Dr.,  
JANE DOES 1-12 and JOHN DOES 1-12,

Defendants.  
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ORDER

11-cv-089-bbc

In response to an order entered in this case on March 14, 2011, plaintiff Natanael Rivera has submitted a trust fund account statement covering the six-month period immediately preceding the filing of the complaint. In determining whether a prisoner litigant qualifies for indigent status, this court applies the formula set forth in 28 U.S.C. § 1915(b)(1). According to this formula, a prisoner requesting leave to proceed in forma pauperis must prepay 20% of the greater of the average monthly balance or the average monthly deposits made to his prison account in the six-month period immediately preceding the filing of the complaint.

In this case, 20% of the average monthly deposits made to plaintiff Rivera's account is \$4.67, but 20% of the average monthly balance in his account is \$27.45. Because the

greater of the two amounts is 20% of the average monthly balance, or \$27.45, that is the amount plaintiff Rivera will be assessed as an initial partial payment of the filing fee. If plaintiff does not have the money in his regular account to make the initial partial payment, he will have to arrange with prison authorities to pay some or all of the assessment from his release account. This does not mean that plaintiff Rivera is free to ask prison authorities to pay *all* of his filing fee from his release account. The only amount he must pay at this time is the \$27.45 initial partial payment. Before prison officials take any portion of that amount from plaintiff Rivera's release account, they may first take from plaintiff Rivera's regular account whatever amount up to the full amount he owes. Plaintiff Rivera should show a copy of this order to prison officials to insure that they are aware they should send plaintiff Rivera's initial partial payment to this court.

#### ORDER

IT IS ORDERED that plaintiff Natanael Rivera is assessed \$27.45 as an initial partial payment of the \$350 fee for filing this case. He is to submit a check or money order made payable to the clerk of court in the amount of \$27.45 on or before April 19, 2011. If, by April 19, 2011, plaintiff Rivera fails to make the initial partial payment or show cause for

his failure to do so, he will be held to have withdrawn from this action voluntarily.

Entered this 29th day of March, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge